UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

IN RE:	**. Case No. 08-14631(GMB)**
	.
	. (Jointly Administered)
SHAPES/ARCH HOLDINGS, LLC,	**.**
et al.,	**. 401 Market Street**
	. Camden, New Jersey 08101
Debtors.	**.**
	. July 22, 2008
. . . . . .	**. 12:23 p.m.**

TRANSCRIPT OF HEARING
BEFORE HONORABLE GLORIA M. BURNS
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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Audio Operator:	**Mary Lampone**

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For CIT Group/Business Credit, Inc.; JP Morgan Chase Bank, N.A. & Textron Financial Corporation:	**Stradley Ronon Stevens & Young, LLP** **By: MICHAEL J. CORDONE, ESQ.** **GARY SCHARMETT, ESQ.** **2600 One Commerce Square** **Philadelphia, PA 19103**
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For DOJ/EPA:	**DOJ/EPA** **By: DONALD FRANKEL** **(telephonic appearance)**
For Epiq Bankruptcy Solutions:	**Epiq Bankruptcy Solutions** **By: DANIEL McELHENY** **(telephonic appearance)**

THE CLERK: Please rise. The United States Bankruptcy Court, District of New Jersey is now in session, Honorable Gloria M. Burns, presiding.

THE COURT: Be seated. Good afternoon.

MR. FELGER: Good afternoon, Your Honor. Mark Felger of Cozen O'Connor appearing on behalf of the debtors.

THE COURT: Before we start, Mr. Felger, I have a couple people on the telephone. Let's get them on the record, and then we'll go forward. Hello, Mr. Cohen?

MR. COHEN: This is Mr. Cohen.

THE COURT: Mr. Cohen, this is Judge Burns, and you're on the courtroom in the matter of Shapes/Arch Holdings, LLC.

MR. COHEN: Good afternoon, Your Honor.

THE COURT: Could you put your appearance on the record, please?

MR. COHEN: Sure. This is Howard Cohen for PPL, Lightman Drum PRP Group, Ewan PRP Group, and D'Imperio PRP Group.

THE COURT: All right, and I understand there are other gentlemen on the phone as well.

MR. COHEN: That is correct.

MR. FRANKEL: Yes, Donald Frankel is on the phone. I'm with the Justice Department representing EPA in this matter.

THE COURT: Good afternoon. And Mr.?

MR. McELHENY: Dan McElheny from Epiq Bankruptcy Solutions. We are the claims agent retained in this matter.

THE COURT: Good afternoon. Mr. Felger is here in the courtroom. He just put his appearance on the record, and I'd like everybody else to put their appearance on the record.

MR. POSLUSNY: Good afternoon, Your Honor, Jerrold Poslusny, Cozen O'Connor, on behalf of the debtors.

MR. HALPERIN: Good afternoon, Your Honor. Alan Halperin, Halperin Battaglia Raicht, on behalf of the Creditors' Committee.

THE COURT: Good afternoon.

MS. LIEBERMAN: Good afternoon, Your Honor. Donna Lieberman, Halperin Battaglia Raicht, for the Creditors' Committee.

MS. YUDKIN: Felice Yudkin, Cole, Schotz, Meisel, Forman, and Leonard on behalf of the Creditors' Committee.

MR. MacMASTER: Donald MacMaster, Office of the United States Trustee.

MR. BRODY: Good afternoon, Your Honor. Alan Brody from Greenberg Traurig. Also with me is Nancy Mitchell and Jody Davis, who have been admitted pro hac vice. We also have Sean Bezark, who's also with Greenberg Traurig, who has not been admitted pro hac vice. We -- if we need, we will ask for such admission later on, and we represent Arch Acquisition I,

LLC.

THE COURT: Good afternoon. Anybody else?

MR. GAREMORE: Good afternoon, Your Honor. Joseph Garemore from the Brown & Connery firm on behalf of the Pollution Control Financing Authority of Camden County.

MR. GIBBONS: Good afternoon, Your Honor. Joseph Gibbons from White and Williams on behalf of Century Indemnity Company.

MR. TERRELL: Dennis Terrell from Drinker, Biddle, and Reath on behalf of Nationwide Industries, Inc.

MR. KLEIN: Good afternoon, Your Honor. Oren Klein of Parker McCay on behalf of Pennsauken Township.

MS. FLEMING: Good afternoon, Your Honor. Marlene Fleming with Michelman and Bricker. I represent A. Marianni's Sons.

MS. KERNS: Good afternoon, Your Honor. Kathleen Kerns of Post and Schell on behalf of defendants Liberty Mutual Insurance and Wausau Underwriters Insurance Company, and with me are Matthew Cheney and Kelly Cusick who have been admitted pro hac vice.

THE COURT: Good afternoon.

MS. SOUTHALL: Good afternoon, Your Honor. Samantha Southall of Buchanan, Ingersoll, and Rooney for Waste Management of New Jersey, Inc., and I have an application for pro hac vice pending.

MS. COBB: Good afternoon, Your Honor. Carol Cobb from Giansante & Cobb on behalf of creditor Ward Sand & Materials Company, Incorporated.

MR. CORDONE: Good afternoon, Your Honor. Michael Cordone from Stradley, Ronon, Stevens & Young. I'm also here with Gary Sharmett on behalf of CIT Group and the other CIT lenders as defined in the plan. Thank you, Your Honor.

THE COURT: Thank you.

MR. SHAPIRO: Joel Shapiro, Blank Rome, on behalf of Arcus Funding and related entities.

MS. WOLFE: Good afternoon, Your Honor. Mary Elizabeth Wolfe with Koch & DeMarco. I'm here for Nicholas Brothers Refuse Removal and Twentieth Century.

THE COURT: Good afternoon, everyone. Mr. Felger.

MR. FELGER: Good afternoon again, Your Honor. And again I would like to thank Your Honor for indulging us this morning. I think the time was well spent. We hadn't yet worked through all of the issues, which is our goal, and folks are still working through some issues out in one of the conference rooms, but we thought it might make sense to begin the record before lunch and then take a lunch break, see if we can resolve the open issues, and then come back and conclude the hearing.

I think it makes sense to work from the agenda and give Your Honor an overview of where we are on the four items

to start. The first matter -- does Your Honor have a copy of the agenda?

THE COURT: Somewhere.

(Pause)

MR. FELGER: The first item is listed as a continued matter. That's the motion of Wells Fargo for relief from the automatic stay. The status, as set forth on the agenda, is that the motion will be withdrawn if the plan is confirmed, and if the plan is not confirmed, the motion will be adjourned to a mutually convenient date for the parties.

THE COURT: That's fine.

MR. FELGER: And the second matter is the confirmation hearing of the debtors' third amended joint plan of reorganization. I'll pass that for the time being.

The third matter is a motion of certain direct generator defendants in the Pennsauken landfill litigation for relief from the automatic stay. We've indicated on the agenda that this matter was settled, and that a consent order would be submitted. When we filed the agenda, we believed we had a deal. We've attempted to settle a consent order of the last few days including this morning. We remain optimistic that we will get there. We just aren't quite there yet. So that's the status of that one. Hopefully, we'll be back after lunch to report a settlement of that matter, but if not, my expectation is that it would likely -- we'd likely request an adjournment

of that motion.

The fourth matter is the debtors' motion to disallow claims for contribution under 502(b)(1) of the Bankruptcy Code and, in the alternative, to estimate claims. That was a motion that we filed pursuant to the disclosure statement order that required determination motions and 3018 motions to be filed by I believe it -- I believe the date was June 20th. A number of objections have been filed to that motion. We've discussed a number of these objections with the objecting parties and are hopeful that we'll make progress before we come back on the record with respect to some or all of the objections that have been raised.

To give Your Honor a little bit of a preview, the -- what we've agreed to do is to adjourn the motion with respect to one of the respondents, and that's the clients of Howard Cohen, who is on the telephone today. His clients are the PRPs with respect to the Ewan, D'Imperio, and Lightman Drum cites, and their issues tie in with the settlements that we've reached, at least the settlement -- the agreement in principal that we've reached with the EPA. And we'll get into that more later, but the EPA settlement is not a settlement that we'll be requesting that Your Honor approve today. We'll have to go out on a track which we'll discuss later.

The issues relating to Mr. Cohen's clients tie into that settlement, and if that settlement is ultimately executed

and approved, the issue -- Mr. Cohen's clients' issues will be resolved with that settlement agreement. So we have agreed to adjourn the response filed by Mr. Cohen to track the settlement track of the EPA agreement.

We've also -- and we're very pleased to report that we've reached a settlement agreement with the plaintiffs in the Pennsauken landfill litigation, which we'll get into more later, but we think that settlement combined with the settlements with the EPA and DEP really go a very long way to wrapping up the entirety of the or very close thereto of the debtors' environmental issues, which again we'll get into more later.

So again there are a number of responses filed to that motion. Again, the motion was filed in a -- sort of a defensive manner to deal with balloting issues principally, and, you know, the outcome of that motion later today will determine whether with respect to Class 9 under the plan we proceed under 1129(a) or by cram down under 1129(b).

So going back to the -- sort of the main attraction for today, the confirmation hearing, we bestowed upon Your Honor a rather thick binder this morning, and I do apologize for that, but we felt it would be an aid to work through the confirmation issues. And --

THE COURT: I'm glad you gave me so much advance notice of that.

MR. FELGER: Again, I do apologize, Your Honor. But perhaps what we ought to start with is to work through what's been included in this binder. It's our view that the binder constitutes the record for the findings that we're going to be asking Your Honor to make and the conclusions of law that we're going to be asking Your Honor to make in connection with hopefully confirming the debtors' third amended plan.

And just to walk through it, we've included the -- obviously, the third amended plan with exhibits, the joint disclosure statement with exhibits, the notice of filing of the plan supplement, of course with the exhibits, which are important, the plan funding commitment letter evidencing Arch's commitment to fund its obligations under the plan, an amended and restated operating agreement for Shapes/Arch Holdings from and after the effective date, a designation of the post-petition officers and managers, the form of plan administration agreement that will govern the Class 10 Liquidating Trustee's efforts post-effective date, and the debtors' amended liquidation analysis.

Items 4 and 5 are the notice of filing of Schedule 8.1 to the debtors' third amended plan. A Schedule 8.1 is the listing of the executory contracts and unexpired leases that the debtors are assuming under the plan. It's probably appropriate to raise this at this point.

We've received four objections to the cure amount in

Schedule 8.1 -- in our notice of Schedule 8.1. We've resolved the -- one of the objections. I should say we've resolved two of the objections.

And with respect to the other two objections, we've agreed to adjourn the issues with respect to the debtors' assumption and rejection and the amount of the cure claim to the extent the debtors decide to assume those contracts to a mutually convenient date, approximately 30 days from now. And I'll say more about that later.

In addition, we have included Items 6 through 9, which are the affidavits of service of the plan voting materials as well as the publication notice that was required, which is, unfortunately, a good portion of what's included in the binder as we were dealing with literally several thousand parties.

Item 10 is the declaration of Mr. McElheny of Epiq, who is on the phone setting out Epiq's report of plan voting.

Items 11, 12, and 13 are additional declarations. Eleven is the declaration of Mr. Victor, who is our sales consultant who ran our competitive process, which we'll get into more. Item 12 is the declaration of Steve Grabell, who is the CEO of the company. That declaration really deals with the lion's share of the 1129(a) requirements. Item 13 is the declaration of Michael Jacoby of Phoenix Management. That also deals with certain of the 1129 requirements, principally

(a)*(7), that creditors will fair no worse under the plan than in a Chapter 7 feasibility, and also the fact that it's our belief that the plan funding commitment of $90 million will be more than adequate to satisfy the debtors' obligations on the effective date.

Item 14 is a stipulated order between the debtor and Arrowwood Indemnity Company. Arrowwood is one of the Class 7 claimants. They had rejected -- excuse me. They had rejected the plan. The other claimant in Class 7, Argonaut, didn't reject the plan but had the same issue that Arrowwood raised, and we agreed to postpone the determination of their respective allowed claims to a later date. I think we have a date with Your Honor at the end of September to deal with the issues involving Arrowwood and Argonaut, which are encompassed in a motion under 502(c), which we've agreed to carry to that September I think 22nd date.

The next item is the notice of the filing of the plan note, which we were required to do under the plan. We don't expect there to be a plan vote, based upon Mr. Jacoby's declaration, specifically, Exhibit B. It's our expectation there will be a -- at least a $2 million, perhaps $3 million, cushion under the plan funding commitment of $90 million. So that again we don't expect there to be a need to have that plan note executed.

Item 16, which we'll spend some more time with after

lunch, is the modification to the debtors' third amended joint plan, which was filed yesterday afternoon.

Item 17 is the confirmation order. I proposed an order that said the attached plan is confirmed, and I lost.

THE COURT: I would like that.

MR. FELGER: And Item 18 is a supplemental declaration of Dan McElheny. That was filed I believe this morning or last night reflecting the additional ballots that were submitted by the Pennsauken plaintiffs with whom we settled last night. So that sort of dovetails with the 502(e) motion. It's our view that once the 502(e) motion is determined, the lone remaining ballots in Class 9 will be these two accepting ballots submitted by the Pennsauken landfill plaintiffs, which would result in Class 9 accepting the plan and, therefore, enabling us to proceed under 1129(a) versus 1129(b). We'll get into it more, but it's probably a moot point, because we believe that a 1129(b) cram down of that class is not a real issue, since the Ben interests are being canceled under the plan.

Now, we received -- in addition to the four objections we received to Schedule 8.1, we have received a number of objections to confirmation. Just to work through them quickly -- and we'll circle back with them after lunch -- we have six objections.

The first objection in the notice -- we're just

working down the notice of agenda -- is by the State of New Jersey, the Division of Taxation. That was an objection to the treatment of tax claims under the plan and an assertion that they held a claim of roughly 30 to 40 thousand dollars against the debtors. We worked with the State of New Jersey after they filed their objection and convinced them that they, in fact, did not hold a claim against the debtors, and they've agreed to withdraw their objection to confirmation.

The next objection is an objection by SL Industries, and that relates to a claim or not, depending on who you're listening to, of SL Industries with respect to the Puchack Well Field Superfund site. We have had discussions with counsel for SL Industries but have not, at least to this point, resolved that objection, and it could very well be that that's the lone objection we'll need to have Your Honor listen to later this afternoon.

The next objection is the objection of Century Indemnity Company. We believe we've resolved the issues with Century Indemnity Company through the language in the plan modification and the various settlements that we've entered into with the DEP and the Pennsauken landfill plaintiffs and the -- well, I shouldn't say entered into -- the agreement in principal we have with the EPA.

The objection -- the next objection is the objection of the Camden County Municipal Utilities Authority, and their

objection was that they hold a claim of roughly 60 to 65 thousand dollars for unpaid sewer charges. In reviewing our plan we noted an issue that they didn't seem to fit within any of our classes, so we've made a change in the plan modification to modify the class of real estate claims to include real estates taxes and sewer charges, and with that change that objection's resolved.

The next objection was filed by PRPs at Ewan -- the Ewan, D'Imperio, and Lightman Drum sites. They're represented by Howard Cohen, who is on the phone. And again, as I indicated earlier with respect to their objection with respect to the 502(b) motion, that's an objection that is resolved through the agreement or agreement in principal with the EPA. And it's my understanding that in connection with our reporting of the settlement with the EPA, that our agreement to adjourn the objection to the 502(b) motion to track the approval process for the EPA settlement, that Mr. Cohen's clients are not pressing an objection to confirmation today.

MR. COHEN: Your Honor, Howard Cohen, Drinker, Biddle, and Reath. I'm not admitted to practice before this Court, but I ask that I be permitted to just briefly respond, and that is that Mr. Felger's representations are correct.

THE COURT: Anybody have an objection to Mr. Cohen appearing today?

MR. FELGER: No objection. I would move his

admission.

THE COURT: Mr. Cohen, anything else that you want to add?

MR. COHEN: That's all.

THE COURT: All right. Thank you.

MR. COHEN: Thank you.

MR. FELGER: The last objection to confirmation is the objection filed by Liberty Mutual Insurance and Wausau Underwriters Insurance, and similar to the Century Indemnity situation, we believe we've resolved the issues raised by Liberty Mutual through the plan modification and the agreements with the DEP and Pennsauken landfill plaintiffs and the settlement in principal with the EPA. And we're pleased to report that we didn't have to burden Your Honor today with five pages of insurance neutrality language.

So I'm not sure how Your Honor wants to proceed given the lunch hour. I could begin to walk through our presentation, which will sort of take us from the disclosure statement hearing -- which I can't believe I'm saying this, but it was two months ago that we were before Your Honor on the disclosure statement -- and sort of bring us through to today and deal with the various conditions that had to be met, the competitive process, and the resolution of the Class 9 claims, how the voting came out, the 1129(a) issues. And that's going to take some time to work through, and it might be better to

have that -- you know, be able to have it uninterrupted rather than begin it and then take lunch. However --

THE COURT: Well, I know you need -- I don't mind starting, but I know you need some time to still try to negotiate some of these issues, so do you think this is a good breaking time for that, or do you think there's other things that we should do before we break?

MR. FELGER: I'm sorry, Your Honor. I think folks would like to continue.

THE COURT: Okay.

MR. FELGER: We will --

THE COURT: Why don't you sort of summarize --

MR. FELGER: Right.

THE COURT: -- where you are and what you still need to do, and then we'll take a break --

MR. FELGER: Okay.

THE COURT: -- so you can try to resolve some of those issues, and we'll come back?

MR. FELGER: Perfect. Okay. We've come a long way, Your Honor, in the last two months. When we emerged back on May 23rd with a disclosure statement order in hand, we knew -- we all knew that we had a lot of work ahead of us to get to this day. It started with the first order of business, and that getting our plan voting materials on the street to thousands of interested parties and publishing that notice in

the various publications that Your Honor ordered. That was all done, as I've laid out in our binder, and those affidavits are set out at Item 6 through 9.

The first real significant issue we needed to deal with was the -- what we viewed -- the debtor viewed as the one significant plan condition, and that was to negotiate and execute new collective bargaining agreements with our five bargaining units on terms acceptable to the plan funder. The initial deadline for us to meet that condition was June 15th. As Your Honor will recall, we weren't able to meet that deadline and, in fact, filed a motion to convert this process from a plan process to a 363 sale process, which obviously would've derailed the process that we're here to have Your Honor approve.

The parties continued to work and give a lot of credit to our special labor counsel, Paul Lewis, who worked tirelessly with the unions to finally get to a point where we had ratified agreements with our unions on June 18th and June 19th and signed agreements on June 23rd. Those revised collective bargaining agreements went effective on July 1 subject to an order confirming the debtors' third amended plan.

Those agreements were acceptable and are acceptable to Arch Acquisition. Arch Acquisition actually participated in the process -- the negotiation process with our unions. The resolution of those issues provide significant benefits to

these estates, and the savings actually approach a million dollars on an annual basis as a result of the hard work of Mr. Lewis and the debtors' principals to get these collective bargaining agreements approved, ratified, and signed up.

In addition to the various wage issues and benefits issues, the debtors were saddled with a multi-employer defined benefit pension plan that they really needed to get out of, and that was perhaps the most important issue on Arch Acquisition's plate with respect to that condition, was to get out of the multi-employer pension plan, to withdraw from those plans, and that was effected. The debtors -- the unions agreed to the debtors' withdrawal from the multi-employer pension plans, and through the negotiations the multi-employer pension plan was replaced by a 401k plan which will result in significant savings for the debtors going forward, several hundred thousand of the almost a million dollar savings -- annual savings that I mentioned.

The -- as a sidebar to that but related, the unions filed an administrative expense claim for the withdrawal liability asserting an administrative claim of $7.5 million for the withdrawal from the multi-employer pension plans, which obviously would've caused a real problem with our plan funding commitment cap. Through negotiations with the unions' counsel, we reached an agreement where they agreed that the claim would be treated as a general unsecured claim rather than an

administrative claim, and we just received a notice from counsel that it's their belief that that claim is not $7.5 million but a claim of less than $5 million. And, of course, the debtors have not reviewed that and reserve all rights with respect to the ultimate amount of that claim, which presumably will be passed to the Class 10 Liquidating Trustee to investigate and resolve. But we're pleased to say that at least in terms of dealing with the unions, as of today, they've agreed that it's not entitled to administrative expense priority, and that it's their belief that that claim is under $5 million.

So that was the first significant hurdle we overcame, and it was, as I indicated -- it was really in question and in doubt as to whether we were going to be able to get there, and we were, as I mentioned, dangerously close to moving in the direction of a 363 sale process.

In addition, at or about the same time we embarked on a competitive process to test the market to make sure that the value that was being paid by Arch Acquisition for the equity in the debtors was fair, and that we hired Scott Victor of NatCity -- I believe the effective date was May 7th -- to coordinate, conduct, supervise, run that process for us.

THE COURT: I've reviewed Mr. Victor's declaration, so I'm familiar with what he says in there.

MR. FELGER: And Mr. Victor is in court today if Your

Honor has any issues or questions for Mr. Victor. And as set out in that declaration, they contacted almost 200 parties, almost 20 signed confidentiality agreements, a number of parties took tours of the facility, but at the end of the day no bids were received by the bid deadline of June 25th, and, as a result, no auction was held on June 27th.

In addition, as I indicated earlier with the filing of the Schedule 8.1, the debtors spent considerable time reviewing the dozens and dozens of contracts and unexpired leases that the debtors were a party to in an effort to pull together the Schedule 8.1 that was ultimately filed as required, and by the time required under the plan and the disclosure statement order a supplement was filed to that Schedule 8.1 to address comments from parties and additional due diligence by the debtors including a removal of a party -- one of the parties that filed an objection to Schedule 8.1. And that party, for the record, is Metropolitan Lumber. So as a result of their objection to Schedule 8.1, we removed that contract from the list of contracts to be assumed under the plan.

Another significant issue that the debtors had to deal with was and is, continues to be, the resolution of the claims, the Class 9 environmental claims. As Your Honor may recall from the very first day of the case, we filed a plan that provided treatment for environmental claims, specifically

setting out that the EPA's claims would be settled by a payment of $325,000 in the aggregate and a settlement of the DEP claims for a total of $25,000 in the aggregate. So that proposed treatment, which was not a settlement in any way -- it was by and large an opening offer by the debtors -- was out there as of the first day of this case.

And over the past I guess three to four weeks, perhaps a little less, the debtors have expended a good deal of resources to get to a meeting of the minds rather than opening offer with the DEP and the EPA and, in addition, determined that if we could reach a resolution with the Pennsauken landfill plaintiffs, that it would, as I indicated earlier, go a long way to wrapping all of the environmental issues for the debtors.

I think it's important to mention, as I did with Mr. Lewis in the labor negotiations, folks who have been really instrumental from the debtors' perspective in getting to where we are today with settlements with these parties. Pete Fountaine of my office, an environmental lawyer, has been very helpful in dealing with the -- and negotiating the settlement with the DEP, which I will describe, which also includes, importantly, an acknowledgment from the DEP that the transactions contemplated under the plan do not trigger ISRA, and that was very important to the debtors and to Arch Acquisition that we were able to convince the and obtain the

agreement of the DEP that ISRA was not applicable to the transaction under this plan.

In addition to Mr. Fountaine, I need to mention Kevin McKenna and Sean Bezark. Kevin McKenna has worked tirelessly, including putting off a bunch of vacations, to help us reach a settlement with the Pennsauken landfill plaintiffs. Mr. Bezark is the environmental counsel for Arch Acquisition and has been invaluable to the process of working through and reaching settlements with the Pennsauken landfill plaintiffs and, particularly, the EPA. And I'll be careful to say that we don't have an agreement with the EPA yet. We have an agreement in principal, but we think we're there with them subject to the process we need to work through to get it officially approved by the EPA.

I'm sort of hesitant at this point to go through the terms of the settlements with folks who are involved in those issues out of the courtroom. I mean the issue that we have outstanding is really the Class 9 issues. We have these settlements with the Pennsauken landfill plaintiffs, the EPA, and the DEP, and we have an objection by SL Industries with respect to the Puchack Well Field site, and we have the issue as to whether the 502(e) motion will be -- (e)(1) motion will be approved, and we're proceeding under 1129(a) or 1129(b) with respect to Class 9.

The report of plan voting reflects that with respect

to the five impaired -- I should say six impaired classes, Class 5, 6, and 10 have voted in favor of the plan. Class 10 is the class of general unsecured creditors who voted overwhelmingly in support of this plan, 90 plus percent in amount and in number. So Classes 5, 6, and 10 voted in favor of the plan. Class 7, as I indicated earlier, had one rejecting ballot that was withdrawn. So we have an impaired class that has no votes. So as a result of that, we can't deem it an accepting class and would have to proceed under 1129(b) with respect to Class 7. It's a class of secured claims, and we believe the treatment under the plan is consistent with the required treatment under 1129(b) for secured claims.

The fifth impaired class is Class 9, which I've already spoken to. We have the two accepting ballots that came in last night, and we have I believe four rejecting ballots that are bound up in our 502(e) motion. And again, as I indicated earlier, an 1129(b) cram down of that class requires that no one junior to them receive anything under the plan. As I indicated the Ben interests are being canceled under the plan.

The last impaired class is Class 11, the Ben interests, which, of course, are being canceled under the plan. No one junior to Ben is receiving anything under the plan.

So it seems to me that we need to take a break. We need to see if we can resolve the issues with the folks who are

out of the courtroom, which would result in a resolution of the joint defense group's lift stay motion. We'll limit or perhaps eliminate issues with respect to 502(e) and perhaps leave us when they come back, after reporting what's transpired, dealing with one objection. That's the objection of SL Industries.

Other than that, we don't envision any other issues with respect to confirmation of the plan, and we believe that the declarations and documents set out in our binder provide all of the support necessary to confirm the plan under 1129(a) or 1129(b) with respect to Classes 7 and 9.

THE COURT: Anybody else that wants to be heard at this time? Mr. Halperin.

MR. HALPERIN: I think Mr. -- Alan Halperin, Halperin Battaglia Raicht, on behalf of the Creditors' Committee. I think Mr. Felger's done a very nice job of summarizing where we are. I just want to make sure it's very clear to the Court that from our perspective he may have undersold what Herculean effort has gone into getting to where we are today by all of the parties. I think it just needs a little bit of a reflection to back where we were on day one, and we're sitting here before --

THE COURT: The Herculean effort is not missed by the Court. I recognize -- I mean I've had -- I've been a recipient of the telephone calls for extensions by debtors' counsel indicating how busy and how difficult it's been, so I -- it's

not lost on the Court.

MR. HALPERIN: And it has been. Mr. Felger and his partner, Mr. Poslusny, and their other partners, Mr. Brody and his partners, and others -- we'll take some kudos, too, but they deserve the lion's share. They have done a phenomenal job to get where we are today. I mean we're sitting here -- thinking about the mess where we started, we sitting here before you today with a plan and request for confirmation, which the Committee believes is confirmable. Hopefully, consensually, but if not, you know, by 1129(b), if need be. Collective bargaining is resolved. EPA messes, environmental messes are cleaned up. Not just claims but actually cleaning up the mess. Jobs are preserved. The business goes forward. Creditors have a meaningful recovery and a trading partner going forward. So we just wanted to make sure that it's understood that the Unsecured Creditors' Committee is supportive of what is going on here today, and that a lot of work, in fact, has gone into it. We just wanted to make sure that it was clear that we think it was, if anything, a little undersold, the efforts that went into getting to where we are.

THE COURT: And your comments are well worth hearing. Mr. Brody.

MR. BRODY: Your Honor, if I may? While -- right before we take this break I just wanted the Court to know that while we are going to attempt to resolve all the open issues

with respect to certain of the environmental claimants, so that we could come back and have a shorter day, the -- when we come back from lunch, notwithstanding a resolution, we believe that we are able to confirm this plan, and it is our intention, whether it is resolved consensually or resolved by statements by the Court, to confirm the plan today and move forward.

THE COURT: Mr. Felger.

MR. FELGER: And I would just sort of echo that or embellish on that. We do have a requirement under the plan that the initial condition was that we have the entry of a confirmation order by July 15th. It's been extended through today. So as of today, Arch Acquisition is requiring that there be a confirmation order entered today. So we have that obviously keeping our feet --

THE COURT: No pressure. Right, Mr. Felger?

MR. FELGER: -- keeping our feet to the fire. Exactly. But I guess before we go, assuming that's what Your Honor wanted to do, I wonder if we can let Messrs. McElheny and Victor go onto other pursuits this afternoon. The --

THE COURT: I'm satisfied with what has been filed with the court, unless somebody else has any issue with it. I've reviewed Mr. McElheny's original certification, declaration, and the supplemental, and I believe that it adequately addressed the issues that were necessary from the balloting agent. I also reviewed Mr. Victor's certification

and declaration, and it was satisfactory to the Court with regard to the sale process and what went forward. Unless there's anybody in court that would want the opportunity to examine those individuals or question them about anything, I have no objection to them not being present for the balance of the hearing.

MR. FELGER: Thank you, Your Honor.

THE COURT: Anything else?

MR. FELGER: What time would you like us back?

THE COURT: Well, how much time do you think you need I guess as a starting point? I mean I -- it would be nice -- I'm hearing what Mr. Brody says, but I know that you would like to try to resolve, if possible, some of these issues, because they don't seem to be the major part of the issues. And I definitely understand what Mr. Halperin was indicating about the mammoth amount of work that has gone forward, and if it could be satisfied, the debtors' obligation, in a completely consensual proceeding, that would obviously be ideal, so I wanted to give you the time that you need to do that, if you can. And if not, you know, we'll deal with whatever issues remain to be decided. So it's quarter after one now. What will kind of -- when would you want to come --

MR. FELGER: I'd say we'd take an hour.

THE COURT: Okay. That's fine. We'll see where we are at that time. My Courtroom Deputy will check with you. If

you need more time, we'll go from there, and we'll schedule the hearing as we can. I'm going to disconnect the telephone conference, Mr. Cohen. And, Mr. Frankel, if you want to have my Courtroom Deputy contact you when we go back into -- onto the record, then we can allow you to appear again by telephone, and I think Mr. McElheny is not going to be needed to be part of this conference.

MR. COHEN: That would be fine, Your Honor.

THE COURT: All right. Chris, do you have the phone numbers to get back to them?

CHRIS: Yes, I do.

THE COURT: Okay. All right. Chris will be in touch with you when we're ready to go back on the record. Okay? Thank you.

ALL: Thank you, Your Honor.

(Recess)

THE COURT: Be seated. Let me get the phone participants on. Hello, Mr. Cohen?

MR. COHEN: Yes, this is Howard Cohen, Your Honor.

THE COURT: All right, then who else is on the line?

MR. FRANKEL: Donald Frankel for EPA.

THE COURT: Hello, Mr. Frankel.

MR. FRANKEL: Hello, Judge.

THE COURT: Anybody else?

MR. KLEIN: Yes, Your Honor, Oren Klein of Parker

McCay on behalf of Pennsauken Township.

THE COURT: All right. We're on in the courtroom now continuing the hearing in Shapes/Arch Holdings. Mr. Felger.

MR. FELGER: Yes, good afternoon, again, Your Honor. Mark Felger, Cozen O'Connor, for the debtors. Thank you, Your Honor, again for indulging us and also for the assistance in chambers a short while ago. It proved very helpful as I think we've made some real progress over the last couple of hours.

I think what I'd like to deal with first is the -- is Item -- let's see -- Item 3 on the agenda. Item 3 is the motion of the Direct Generator defendants for relief from the automatic stay, to permit dismissal of the debtors from the joint defense group.

THE COURT: Right.

MR. FELGER: I'm pleased to report that we've settled that motion, and we've resolved it through a consent order. And if the Court will indulge me, I'd like to read what is a relatively short consent order into the record with the view to having it cleaned up and submitted hopefully tomorrow for entry. And we do have a number of parties that need to sign -- actually sign the consent order, so it may actually be a day or two, which is why I'd like to read it into the record.

THE COURT: Okay.

MR. FELGER: "This consent order is entered into by and between the above-captioned debtors and debtors in

possession, collectively, with Ben, LLC. The debtors on one hand, and Boise Cascade Corp., Weyerhaeuser Company, CE Glass, Inc., Rohm and Haas Co., Cook Composites and Polymers Co. on its behalf and on behalf of Superior Varnish and Dryer, and C.J. Osborne Chemicals Co., Devoe Coatings, Inc., Georgia Pacific Corp., Sears Holding Management Corp., Ford Motor Co., SL Industries, Inc., SL Modern Hardchrome, Our Lady of Lourdes Medical Center, and West Jersey Hospital, on the other hand, collectively, the generator defendants. The debtors and generator defendants, singly and as a group, being hereinafter referred to collectively as the parties, resolve that generator defendants' motion for relief from the automatic stay to dismiss the debtors from the joint defense group, whereas, the debtors filed their respective voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code on March 16th, 2008.

Whereas, prior to the petition date one or more of the debtors were a party/parties to a joint defense agreement;

Whereas, on or about June 9th, 2008 the generator defendants filed the motions seeking to dismiss the debtors from the joint defense group;

Whereas, the debtors have disputed the motion and have informally raised certain issues related to the motion;

Whereas, the generator defendants have informally disputed the issues that the debtors informally raised;

Whereas, the parties' desire to settle the motion as set forth herein;

Whereas, A&H Bloom Construction Co. and the Bloom organization, collectively Bloom, were not signatories to the motion but must execute this consent order as a member of the generator defendants joint defense group.

Now, therefore, in consideration of the mutual covenants and promises set forth herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the debtors and generator defendants hereby stipulate and agree as follows, (1) the foregoing background is incorporated herein by reference, (2) the motion is resolved as set forth herein, (3) the debtor shall be deemed no longer a member of the joint defense group as of the petition date, (4) within ten days of entry of this consent order, the joint defense group shall pay to debtors' counsel $28,172, which amount represents two wire transfers from debtors' counsel to the joint defense group account.

Additionally, the joint defense group shall return five checks totaling $3,656 to Liberty Mutual Insurance Company, which checks were never deposited into the joint defense group financial account."

Paragraph (5), "The parties stipulate that the expert reports issued on behalf of the joint defense group, paren, expert report of Charles McClain, PhD., May 23rd, 2008,

prepared for generator defendants, expert report prepared for direct generator defendants May 23rd, 2008 prepared by Cornerstone Environmental Group, LLC, expert report prepared for direct generator defendants prepared by Muriel Robinette, New England EnviroStrategies, Inc., May 23rd, 2008, supplemental expert report prepared for direct generator defendants July 10, 208 prepared by Cornerstone Environmental Group, LLC, supplemental and expert report of Charles F. McClain, PhD., July 10, 2008 prepared for generator defendants, and rebuttal report prepared for direct generator defendants prepared by Muriel Robinette, New England EnviroStrategies, Inc., July 9th, 2008, as well as any amendments, supplements, or updates thereto, collectively the expert reports, shall not be deemed an admission by the debtors or Ben, LLC in the Pennsauken action or any other pending or future litigation in any manner including but not limited to arbitration, administrative hearing, mediation, or other forum."

Paragraph (6), "Neither the joint defense group nor any of the generator defendants or Bloom shall use the expert reports, initial cap, for any purpose against the debtors or Ben, LLC in any pending or future litigation, in any other manner, including but not limited to arbitration, administrative hearing, mediation, or other forum. Provided, however, that nothing herein or in the plan or confirmation order shall be construed to in any way limit, bar, or preclude

the generator defendants using the expert reports as evidence or in arguments to support a reduction and/or credit that reflects a proportionate share of responsibility, if any, allocable to the debtors at trial or during any allocation, ADR process, or legal proceeding in the Pennsauken litigation."

Paragraph (7), "Upon entry of this consent order the debtors, on the one hand, and the joint defense group, and each of the generator defendants, including Bloom, on the other hand, hereby generally release and discharge each other, their predecessors, successors, and assigns, their agents, and all attorneys including but not limited to attorneys in the Pennsauken action from all claims which each party may have against the other for all claims relating only to allegations of breach of confidentiality or for violation of the automatic stay. The parties, however, reserve the right to seek recourse against each other if the debtors, the joint defense group, or any of the generator defendants, including Bloom, breach the confidentiality provisions of the joint defense agreement after the entry of this consent order."

Paragraph (8) and the final paragraph, "Unless otherwise specified in this order, the generator defendants and the debtors continue to be bound by the terms and conditions of the joint defense agreement."

In addition to the language that I just read into the record, Your Honor, in resolving the issues raised by the joint

defense group, we have agreed to add language to the confirmation order which modifies the -- which serves to modify the plan modification that was filed with the court yesterday. And so what we've agreed to do, Your Honor, is add to Paragraph 64 of the confirmation order the following. I hate to take this piecemeal, because we're going to get into the confirmation order hopefully when we move to the confirmation portion of the hearing. But I think it's important to wrap in everything that we agreed to to resolve that 362 motion, which also resolves their issues with respect to the plan.

So what we've agreed to add to Paragraph 64 is in the seventh paragraph of Section 4.4 of the plan modification -- the following shall be added to the first sentence after the term contribution at the end of the sixth line, and the words are, "or joint and several by ability."

Also the following shall be added to the end of the same sentence, "except to defend any action brought by any such party for contribution or joint and several liability."

And we've agreed to add to Paragraph 65, with respect to the settlement of the environmental claims of NJDEP and Pennsauken, in Romanette three, which reads, "are approved in their entirety." We agreed to change that to read, "are incorporated herein and approved in their entirety."

In addition, Your Honor, pursuant to our colloquy in chambers, the Pennsauken landfill plaintiffs agree to share

Paragraph 11 of the settlement agreement with the counsel for the joint defense group, and that review played -- certainly played a role in our reaching the settlement that I've just set forth on the record. I'm not sure if anyone else wished to be heard, but I think that covers what we've agreed to in settlement of that 362 motion.

THE COURT: Anybody else want to be heard with regard to the changes Mr. Felger has put on the record?

(Pause)

MR. FELGER: Mr. Bezark just reminded me that Mr. Garemore, in addition to allowing the -- allowing us to share Paragraph 11 of the settlement agreement with the joint defense group, also allowed us to share that language with counsel for certain transporters in that litigation or in court, and we did so.

THE COURT: Mr. Felger, does that resolve the objections that were filed to the confirmation of the plan by the generator group and their participants?

MR. FELGER: The generator group did not file --

THE COURT: Okay.

MR. FELGER: -- an objection to confirmation. They filed a -- they filed an objection to the 502(e) motion, and I understand this resolves their objection to the 502(e) motion, and that they will be withdrawing their proofs of claim, but I'd like confirmation of that.

MS. POLLACK: Good afternoon, Your Honor. Robyn Pollack of Saul Ewing on behalf SL Industries, Inc. That is correct. Pending the entry of the agreed upon confirmation order that Mr. Felger will be reading into the record later in these proceedings, SL Industries is withdrawing its Claims Number 547 and 612.

THE COURT: Thank you.

MS. PENA: Good afternoon, Your Honor. Melissa Pena from the law firm of Noriss, McLaughlin, and Marcus on behalf of Combustion Engineering, Inc. That is also accurate. Pending the entry of the confirmation order as recited by Mr. Felger, Combustion will be withdrawing its Claim Number 559.

THE COURT: Thank you.

MS. COBB: Your Honor, it doesn't resolve the issues for the other parties, the transporters, and everybody keeps forgetting I'm the former owner of the landfill. Our issue with it -- with the whole consent decree has got to do with discovery. It bars us from any discovery. The direct generators, of course, would like to limit the size of Aluminum Shapes' allocation, because they're in the same group, and they have a potential of, you know, keeping that down so that they're orphan share is down. But in our particular case, we would like to continue to put on our case against Aluminum Shapes. While it may be the plaintiff that's liable, we're barred from any discovery, and we're barred from developing

evidence, developing expert reports, developing arguments at trial. We're barred from all this, and we want to put it forth even if Aluminum Shapes isn't at the table, and we don't think this is the right place to do that.

THE COURT: Well, I'm not sure what has been done here other than a resolution between that group and the debtor.

MS. COBB: Okay. This is in the plan, and I didn't know -- I just didn't want us to be precluded from objecting to the plan.

THE CLERK: Excuse me. Can you make your appearance, please?

MS. COBB: Oh, yes. It's Carol Cobb from Giansante & Cobb for Ward Sand & Materials. I mean if we're going to go forward with the plan, then we'll come back at that time.

MR. FELGER: So Your Honor's question was does that resolve the issues with respect to, I believe, the members of the joint defense group, and I believe it does. And but my understanding is that all of the joint defense group members are going to withdraw their proofs of claim. And I don't know if all the joint defense group members are here, but that's our understanding and expectation of the agreement that we reached.

(Pause)

MR. FELGER: With respect to Item 3 I believe it is -- did I lose my agenda? The motion --

(Pause)

MR. FELGER: I just got a clarification from counsel for SL Industries that they don't have at this point the authority on behalf of all of the members of the joint defense group to withdraw their proofs of claim. It's certainly our expectation that that's going to happen as part of the deal, but hopefully by the time we conclude, we may have e-mails back confirming that that's the case with respect to the joint defense group members who decided not to appear today.

(Pause)

MR. FELGER: With respect to the -- my agenda has disappeared, but with respect to the motion -- the motion to object to claims under 502(e) and to estimate claims, how we'd like to approach that, Your Honor, is we've reached an agreement, as Your Honor's aware with the Pennsauken landfill plaintiffs, which I'll describe as we move into the confirmation portion of the hearing. We've also agreed with the joint defense group that at least the members here have agreed to withdraw their claims, and, hopefully, we'll get confirmation that they've all agreed to withdraw their claims.

We've agreed with the PRPs at Ewan, D'Imperio, and Lightman, represented by Mr. Cohen on the phone, to adjourn that as it relates to his clients to run parallel with the approval process for the EPA settlement. What we'd like to do is to adjourn the balance of that motion for a short period for a date that works with Your Honor, perhaps a week to two weeks

down the road, so that we can have some additional time to work with the parties that have filed responses and hopefully settle the issues that they've raised in their responses.

THE COURT: Just a minute, Mr. Felger.

(Pause)

THE COURT: When did you want to have that heard? I'm not going to be here on the 31st and 1st, and then I'm not going to be here from the 5th to the 8th, so --

MR. FELGER: I know we have a few dates with Your Honor going out.

THE COURT: What do we have? Do you know?

MR. FELGER: Jerry, do you know?

MR. POSLUSNY: Your Honor, I believe we have a date -- bear with me one moment, Your Honor.

THE COURT: Sure.

(Pause)

MR. POSLUSNY: I believe we have a date on August 25th, Your Honor, which is a motion day.

THE COURT: That's fine.

MR. POSLUSNY: And after that I think the next date we have anything certain is September 22nd, which is probably longer than everybody would want to carry this anyway.

THE COURT: Well, I have -- I mean I -- my only question is should we do this on a motion day, Mr. Felger? Do you think it's going to --

MR. FELGER: It really depends on whether we're able to make any progress. Part of my concern is there's a number of parties, and it could take a while to flesh out and hear all the stories. It could take a while, so my sense is it -- you know, it could take a couple of hours.

(Pause)

THE COURT: Mr. Felger, how much time did you want? I have a couple of days in the week of August 11th. I have --

MR. FELGER: Do you have August 11th available?

THE COURT: Well, August 11th is a Monday. That's a motion day, but I could do it the 12th or the 14th, and then I don't have anything else. You know, I could give you the -- how is that?

MR. FELGER: Okay. Can we have the 12th, Your Honor?

THE COURT: August 12th at 10:00?

MR. FELGER: Thank you, Your Honor.

THE COURT: Will the adjournment of that motion impact the ability to confirm the plan today?

MR. FELGER: I don't think so, Your Honor.

THE COURT: It's just going to determine what those claims will be at the time, when they're going to treated.

MR. FELGER: Right. Right. I mean it'll be our position, unless we reach some accommodation, that they should be disallowed under 502(e)(1), or they are -- I shouldn't say or. But a settlement with Pennsauken makes it an even stronger

case for the disallowance under 502(e). But in terms of impacting confirmation, as we move to the confirmation, none of those parties filed objections to confirmation. A couple of them filed rejecting ballots, but, as I addressed earlier this afternoon, if those ballots would be -- if those claims were disallowed, and those ballots wouldn't count, we would have an accepting class in Class 9 by virtue of the accepting ballots by the Pennsauken landfill plaintiffs. The ability to confirm under 1129(b) with respect to Class 9 is a simple matter for this Court. The test is is anyone junior getting anything, and the fact of the matter is that Ben -- Ben's interests are being canceled and new interests are being reissued to Arch Acquisition for what we find to be fair consideration. So -- and that's -- we've set that out in those very words in Mr. Grabell's declaration in support of confirmation in anticipation of perhaps having to proceed under 1129(b) with respect to Class 9 as opposed to 1129(a).

So moving to confirmation, we did spend some time earlier this afternoon walking through the plan and how we got from the disclosure statement hearing to the hearing today, the satisfaction of the CBA plan condition, the completion of the competitive process without any competing bids being submitted, and we walked through the report of plan voting, which is set out in the McElheny declaration and is also set out in the Grabell declaration.

We walked through the objections that we received to confirmation and made reference to our plan modification and our confirmation order. And I think what might be appropriate at this point is to walk through the plan modification to -- or set out for Your Honor the changes that we've made and sort of our -- and set forth our view that these are non-material changes to the plan and changes in resolution of objections that have been filed -- have been filed or raised informally by parties. The -- does Your Honor have a copy of the modification?

THE COURT: Yes.

MR. FELGER: In Paragraph 1 we're simply clarifying that it's the debtors through the effective date, and from that effective date forward it's the reorganized debtors.

Deficiency claim, I don't know if we need to say much there. It's a clarification to that language raised by certain parties.

Paragraph 3, it's the same with respect to environmental claim, clarifications to that definition raised by various parties including the EPA and the insurers.

Paragraph 4, modifies Class 2, which I referenced earlier this afternoon. We've changed Class 2 to include sewer charges to address and resolve the objection by Camden County Municipal Utilities Authority.

Paragraph 5, we've modified Class 7 to set out that

the claim will be determined after the effective date, and, presently, we have a hearing set before Your Honor for September 22nd to deal with the Argonaut and Arrowwood claims. And that change again resulted in Arrowwood withdrawing its rejecting ballot on the plan.

Paragraph 6, is really the guts of this modification and reflects sort of a wholesale expansion of the treatment of Class 9. Your Honor will recall, and I mentioned it earlier today, that the plan we filed the first day of the case provided for the EPA or offered the EPA $325,000 in full satisfaction of its claims, offered the NJDEP $25,000 in full satisfaction of its claims, and provided that the balance of the environmental claims would -- I believe that first plan provided that it be treated through insurance proceeds.

This now three-page provision for the treatment of Class 9 has been heavily negotiated by a number of parties, including HIG, the Committee, the insurers -- the debtors' insurers, the EPA, the Pennsauken plaintiffs, and now certain co-defendants in the Pennsauken landfill litigation. The -- and essentially what we've achieved, Your Honor, is we've achieved three settlements that again essentially resolve all of the debtors' environmental liability but for certain items. And I think what I ought to do is walk through each of these settlements and provide sort of in summary fashion the material terms of these settlements that we've reached with the three

parties. I think the modification does a pretty good job of setting out what the material terms are, but perhaps a bit of expansion would be appropriate.

With respect to the EPA, again, procedurally, we don't have a signed agreement with the EPA as I stand here this afternoon. What we have with the EPA is an agreement in principal subject to additional layers of approval at the EPA. We're hopeful that we will have a signed settlement agreement over the next couple of days, and then it's our understanding that it will -- the agreement will need to go out for public comment over a period to be determined. I think the typical period, from what I understand, is 30 days. We've requested the EPA reduce that to 10 days, and they are considering that request, and we're hopeful that they will respond favorably to that request, so that we can move forward and have the agreement signed up and approved by Your Honor within ideally the next two weeks.

The settlement -- and I should probably give you a little bit of background. The EPA filed a proof of claim related to the Swope's site, and the EPA has asserted a right to file additional claims through September 12th, 2008. The debtors and the EPA have agreed in principal that the debtors shall pay $811,924 to the EPA in full and complete satisfaction of the claims relating to the liquidated sites set forth in the settlement agreement.

Specifically, the claims being settled are claims relating to Swope with a $375,000 allocation, D'Imperio sites with a $149,506 allocation, the Ewan sites with a $62,418 allocation, and the Lightman Drum site with a $225,000 allocation. The Chemical Control Corporation site is also being settled, and the Berks Associates site is also being settled, but there's no allocation. The settlement is for $0 for those two sites.

The other EPA settlement, the EPA is providing contribution protection under CERCLA and has covenanted not to sue the debtors with respect to the settled sites. The one site that has been carved out of the EPA settlement, it's deemed the discharge site as opposed to a liquidated site, and for which the debtors are not getting contribution protection is the Puchack Well Field Superfund site. The EPA settlement's been approved by the debtors' insurers, and the debtors' insurers are funding the payment of the settlement under the EPA agreement.

It's our understanding that the PRP groups at these sites, specifically, Ewan, D'Imperio, and Lightman Drum, and I believe Swope -- but specifically with respect to Ewan, D'Imperio, and Lightman, we believe that they're on board with that settlement and support that settlement. And, in fact, they have agreed to adjourn their objection to 502(e) to track the approval of the EPA settlement with the expectation that if

the EPA approved -- settlement is ultimately approved, it -- their objections will be withdrawn or marked as resolved.

The -- does Your Honor have any questions with respect to EPA -- the EPA settlement?

THE COURT: Not specifically.

MR. FELGER: Okay. The next settlement is the DEP settlement. Your Honor will recall that the original plan provided for a $25,000 payment to the NJDEP. The parties have agreed and have actually signed a consent order setting out that the debtors will pay $50,000 in complete satisfaction of all the claims related to the sites referenced in Section 4.4 of the plan -- Schedule 4.4 of the plan except for the Douglassville site, which is not subject to the DEP's jurisdiction, and the 9000 River Road site, which is the debtors' property.

The consent order -- pursuant to the consent order, the parties have resolved any and all costs the DEP has incurred or will incur in connection the DEP sites. Again, DEP sites being those sites exclusive of Douglassville and 9000 River Road. And natural resource damages -- again, for natural resource damages except with respect to 9000 River Road for any natural resource of New Jersey that has been or may be injured as a result of the discharge of hazardous substances in connection with the DEP sites.

The DEP settlement does not release Shapes with

respect to Shapes' obligation to identify and address sources contributing to chromium contamination in the soil and groundwater at 9000 River Road. And, in fact, Shapes has agreed to continue to perform its obligations with respect to the 9000 River Road site under the memorandum of agreement that's referenced in the plan modification. And this agree again was approved by the debtors' insurers, and the debtors' insurers will be funding the $50,000 payment to NJDEP and will continue to fund the debtors' obligations under the MOA subject to applicable policy limits.

Now, the DEP consent order carves out its claim for natural resources damages for the 9000 River Road site. The DEP has filed a proof of claim. I believe it's in the ball park of $7 million for that claim. The parties reserve all rights with respect to the amount and validity of that claim, but that claim will be treated as a Class 9 claim and will be paid through insurance to the extent of coverage, and if there's a deficiency, the deficiency claim would roll into and be treated as a Class 10 claim.

In addition and importantly, as I mentioned earlier today, as part of the negotiations with NJDEP, the DEP issued a letter indicating that the transaction under the plan does not trigger ISRA, and is not -- and ISRA is not applicable to the transaction that's being consummated under the plan.

Last and certainly not least is the Pennsauken

landfill litigation settlement. The debtors and the Pennsauken landfill plaintiffs have entered into a settlement agreement and release that provides that the debtors will pay the amount of $450,000 to the plaintiffs and will continue to address the hexavalent chromium issue in Pennsauken landfill outer ring Well 6. Pennsauken will provide -- the plaintiffs will provide the debtors with contribution protection, indemnification for all claims against the debtors in the Pennsauken litigation including but not limited to the direct claims of all transporters, Ward Sand, James Morrissey, Quick-Way, Rice Trucking and Transport, and Super Quick-Way Services, Atlantic Disposal, the DEP, and all other parties and all cross claims and contribution claims of all parties in order to obviate the need for the debtors to participate at the trial or any other proceeding to defend or minimize its allocated share of liability. The contribution protection specifically includes any released, settled, dismissed party from a list of parties to the Pennsauken litigation.

Pennsauken plaintiffs will, among other things, reduce or offset any jury verdict, judgment, recovery, settlement in the Pennsauken litigation by the amount paid by the debtors or the amount equal to the debtors' allocated share of liability, if any, whichever is appropriate to eliminate the existence of any claims, direct or contribution claims by any party against the debtors based on or arising from the

litigation. And the Pennsauken plaintiffs will release the debtors, reorganized debtors, and all of its affiliated entities, including Ben, from any contribution or other claim based on allegation that debtors' waste or other materials were deposited or disposed of, at, or transported to the Pennsauken landfill, that the Pennsauken landfill or its contents contaminated Puchack.

Pennsauken's settlement does not include the case of Harris v. Advanced Process Supply Company. The status of that case is that it's in appeal, and the debtors were dismissed from that appeal based upon the bankruptcy.

The terms of the settlement with Pennsauken plaintiffs have been approved by the debtors' insurers, and the debtors' insurers will be funding the payments necessary to consummate that settlement.

Those are the three settlements that we've negotiated, Your Honor. Again, we've entered into a consent order with the New Jersey Department of Environmental Protection. We've entered into a settlement agreement with the Pennsauken plaintiffs, and we've I believe fully negotiated a settlement agreement with the EPA subject to what I've already laid out for Your Honor in terms of having that executed and ultimately proved.

Those settlements are summarized in the plan modification, and in addition to the plan -- to the summary of

those settlements in the plan modification, we've included language that provides a release -- or I should say a mutual release with the insurers who are funding these settlements. We've also included language with respect to the contribution protection that's being provided to the debtors under each of these settlements. Again, the terms of the settlements will govern the extent of that protection. The --

Moving to Paragraph 7, we've made a change to the reserve for plan expenses. There's a request by the Creditors' Committee which just talks about when the -- any surplus would be released.

Paragraph 8, we've made changes to the Section 8.3 on insurance policies which sets out basically that all the insurance policies are being assumed under the plan. It was limited in the earlier draft to the insurance related to environmental claims. We wanted to make it clear that it was all insurance.

In Paragraph 9 we've amended Section 9.2(c) to move out the effective date from July 31 to August 4th in light of the adjournments that we've had to request of Your Honor. We're hopeful that we'll close before then, but August 4th gives us the ability to wait for a -- hopefully, a final order and then close.

Section 10 is a revision at the request of the insurers to be perhaps more specific with respect to certain

items that can be potentially heard by Your Honor post-effective date.

Section 11 is the discharge. The only change there is to track the injunction paragraph to read before the effective date rather than the entry of the order.

Paragraph 12. A number of changes to Paragraph 12, confirmation injunction. The main change or what we spent a lot of time with, with respect to this provision, was the concern raised by a number of parties where we had what I'd like to call standard language, because I've seen it in many, many plans. The language of has, had, or may have a claim, and you'll see it struck. It said who have held, hold, or may hold any claim. There was some concern that we were trying to enjoin claims beyond what we may be able to enjoin under applicable law. So we spent a lot of time with a lot of parties massaging that language and ultimately acquiesced at the request of the EPA to make the change that we did there to make it clear that it deals with claims that arose at any time prior to the effective date, which we believe is consistent with applicable law.

There are additional changes to this paragraph that have been made at the request of a number of parties. At the end we've added a provision that requires parties to -- after the passage of 90 days after the effective date requires them to come to this court and ask for relief from the plan

injunction in order to proceed with the liquidation of an environmental claim in a forum other than this court. And that was requested by our insurers. In fact, a much stronger and longer period -- stronger language and longer period was requested by our insurers, and we've accommodated their concern and others' concerns by adding this language which we think is a fair compromise.

Again, as I've set out earlier, it's our view that as a result of these settlements, we don't believe there are other environmental claims to pursue other than, as I indicated, the NRD proof of claim by the NJDEP, which is a proof of claim that's been filed with this court, which we expect will be resolved through the claims adjudication process before this Court.

So in light of our belief that there is anything else out there, we wanted to have this mechanism to require folks to come before this Court and ask for relief from the plan injunction before proceeding in another court, so that we could vet whatever issues there could be with respect to whether they even have a claim that wasn't discharged through the plan.

The last -- I shouldn't say the last. Paragraph 13 is the paragraph preservation of insurance, the, quote/unquote, insurance neutrality provision. We had an insurance neutrality provision that I thought was pretty clear, pretty short and sweet, and we received an objection by the insurers that had a

much longer view of the world on insurance neutrality and what it took to be truly neutral, and we've -- after a lot of back and forth with the insurers, we agreed to make the change that's reflected in the modification, which we think makes it pretty clear that the plan is indeed neutral.

There is a provision that says that the insurers aren't bound in a current or future litigation by any factual findings or conclusions of law. We changed that provision to carve out the settlements that have been reached and that are reflected in Section 4.4 of the plan and approved in the confirmation order. We make it clear that they are indeed bound by that and their commitments thereunder.

Paragraph 14, we've made some changes to the Schedule 4.4 to update information, and we've attached an updated or a supplement to Schedule 4.4, which is really the universe of the environmental issues that confront the company. And again, it's our view that the settlements that have been achieved have gone a long way to eliminating environmental -- these environmental claims.

(Pause)

MR. FELGER: With that, I believe we've resolved -- with the modification that we filed yesterday, I believe we've resolved all of the objections that have been filed to the plan except for the objection of SL Industries. Their objection goes to whether they hold a claim with respect to the Puchack

Well Field Superfund site. They believe under the Frenville case that they do not hold a claim at this point. The debtors take a different view.

But what they've been requesting is language in the plan or the confirmation order to preserve the right to sort of fight about that issue later, and after a lot of back and forth I think we've reached an agreement with respect to the language that will resolve SL Industries' objection to the plan. And if you'll indulge me a moment, I'll try to locate that language.

(Pause)

MR. FELGER: Your Honor, what we've agreed to add to the confirmation order is a new Paragraph 67 that will read as follows. "Notwithstanding anything contained in the plan, Section 4.4 to the plan, the disclosure statement, any plan-related document, and the confirmation order, nothing contained therein shall effect or prejudice the right of SL Industries, Inc. to assert that any obligations of the reorganized debtors with respect to the Puchack Well Field Superfund site are neither claims as defined in the plan and in the Bankruptcy Code nor environmental claims as defined in the plan." So we've reserved the right for them to argue at a later point whether they hold a claim or an environmental claim.

We've also agreed to two additional sentences following the one I just read. "And to the extent such obligations are neither claims nor environmental claims, they

shall not be subject to the discharge or injunction provisions contained in this confirmation order. To the extent such obligations are claims or environmental claims, they shall be subject to the discharge and injunction provisions contained in the confirmation order."

THE COURT: And that language satisfies the objection of SL Industries?

MR. FELGER: I believe it does.

MS. POLLACK: Yes, it does after --

THE COURT: Ms. Pollack.

MS. POLLACK: After a lot of hard work, it does. In addition to the language that we negotiated, it's our understanding, as Mr. Felger went through some of the provisions of the plan, that because the Puchack Well Field is not part of the definition of government actions, which is a new term that is part of these settlements, then those provisions of the plan pertaining to government actions do not apply to Puchack.

We'd further like the record to reflect that in the event that Puchack is deemed to be an environmental claim, SL Industries reserves its rights to seek to recover under any and all applicable insurance policies. And with that, we are resolved.

MR. FELGER: Yes, it's basically a reservation of rights by both sides to address the -- for what of a better

word, the Frenville issue at a later point.

THE COURT: Are there other objections that were filed that have been resolved?

MR. FELGER: Well, we -- as I indicated earlier, we had six plan objections. The State of New Jersey objection was withdrawn. The objection by Camden County Municipal Utilities Authority was resolved through our amendment and through our modification. We had the two objections by the two insurers which have been resolved.

THE COURT: By the language that you're adding and the modification.

MR. FELGER: The language and the modification and the various settlements that we've reached. We had an objection by SL Industries, which we've just resolved with the language -- the inclusion of the language into the confirmation order.

And last, but not least, we had an objection raised by the PRPs at Ewan, D'Imperio, and Lightman, Mr. Cohen's clients, and they've agreed that the agreement in principal that we have with the EPA and the path that we've laid out to approve that settlement resolves their objection to confirmation. I think Mr. Cohen indicated that earlier this afternoon. So that resolves all of the objections that have been filed.

We had four objections filed to the Schedule 8.1,

which I alluded to earlier. We've resolved with respect to Mr. Cohen's -- another one of Mr. Cohen's clients, PPL, and we've -- with respect to Metropolitan Lumber, we've agreed to remove that contract from Schedule 8.1, which we did. And then with respect to the objections by National -- Nationwide Industries and National City Capital Commercial, we've agreed to adjourn -- and we're going to need a date from Your Honor. We've agreed to adjourn the 365 -- all 365 issues with respect to their contracts for approximately a month, so that we can continue our discussions. We've had discussions with both parties in an effort to try to resolve the issues and just haven't been able to get everything buttoned down yet. So we all thought it made since to put it off for about a month and see if we can resolve those issues.

If Your Honor will indulge me for a moment, I did make an agreement with Mr. Cohen to read certain language into the record with respect to his Schedule 8.1 objection, and perhaps rather than me fishing for it in my briefcase, if Mr. Cohen has it, which I think he might, perhaps he can read it, and I can acknowledge it.

MR. COHEN: Sure. Howard Cohen, Drinker, Biddle, and Reath on behalf of PPL Energy Plus. Let me read the language on the record. "PPL Energy Plus, LLC, PPL, and the debtors are parties to certain agreements whereby, among other things, the debtor agreed to buy energy from PPL at an agreed upon

contractual rate. The debtors are assuming such agreements under their third amended plan, which is the plan that is before the Court today. Accordingly, the debtors and/or reorganized debtors will be required to perform going forward in accordance with the terms of the agreement.

As of the petition date, no less than $646,936.95 was due PPL under the agreement. The debtors and/or reorganized debtors agreed to pay PPL on the effective date of assumption of the agreement all pre- and post-petition amounts owed PPL through the effective date of assumption of the agreement." That is the language, Your Honor.

THE COURT: Mr. Felger.

MR. FELGER: I would say that is accurate with two modifications. One is that the payment will be on as soon as practical after the effective date, and the -- and we didn't agree to the no less than language. We agreed that the obligation was, in fact, the amount that Mr. Cohen read in to the record.

MR. COHEN: Fair enough. As of the petition date, that was the correct amount. With those representations, PPL will agree that their objection is resolved.

THE COURT: All right. Mr. Felger.

MR. FELGER: And Mr. Poslusny has just given me some language that Nationwide Industries wanted us to add to the confirmation order. You'll recall that's the -- one of the two

objecting parties to Schedule 8.1 that we've agreed to adjourn. They've asked us to add in to the plan, "Notwithstanding anything in the plan to the contrary, the debtor, the reorganized debtor, and Nationwide Industries, Inc. reserve all rights under Section 365 if the cure claim cannot be resolved," which is perfectly fine with us.

Your Honor, based upon the record created today, including all of the exhibits that we've presented to Your Honor, specifically, the declarations of McElheny, Grabell, Jacoby, and Victor, we believe that the requirements of 1129(a) and (b) have been met, and that the plan ought to be confirmed.

In addition to the exhibits that we have presented in the binder and the declarations that I've just mentioned, I'd like to make a proffer of testimony on behalf of Sean Ozbalt in support of confirmation. And Mr. Ozbalt is in the courtroom today, and if called to testify, Mr. Ozbalt would testify that he's an officer of Arch Acquisition I, LLC and is authorized to make this declaration on behalf of Arch.

He would testify that Arch is a post-petition lender of the debtors and the plan funder as such terms defined in the debtors' third amended joint plan of reorganization. That Arch is an affiliate of Signature Aluminum, a leading aluminum extrusion business in North America with eight facilities in the U.S. and Canada that manufacture aluminum log, billet, and extruded products. He would testify that Signature is a

portfolio company of HIG Capital, a leading private equity investment firm with in excess of $6.5 billion of committed equity capital available to support its investment activities.

Mr. Ozbalt would testify that Arch's commitment to acquire the membership interests in Shapes/Arch is expressly conditioned upon the execution of new collective bargaining agreements with the debtors' unions on terms acceptable to Arch. Arch is in receipt of new collective bargaining agreements that have been executed by the debtors' unions and the terms of new collective bargaining agreements are acceptable to Arch. He would testify that the new collective bargaining agreements became effective on July 1, 2008 subject to confirmation of the plan, and, as such, this condition to confirmation has been satisfied.

He would also testify that in consideration for receiving 100 percent of the new LLC interests in reorganized Shapes/Arch Holdings, LLC it will be issued as of the effective date of the plan. Arch or its designee has committed to the follow, (1) to provide all necessary funding to met its obligations under the plan funding commitment as defined in Sections 1.88 and 5.5 of the plan, including the exit facility as defined in Sections 1.59 and 5.4 of the plan, (2) to provide all necessary funding to pay or cause the reorganized debtors to satisfy the plan funding commitment excluded items as defined in Section 1.87 of the plan, and (3) to unconditionally

guarantee the plan note to be issued by the reorganized debtors under the plan, if necessary. Further, HIG is committed to unconditionally guarantee the plan note if it becomes necessary to issue the plan note.

Lastly, Mr. Ozbalt would testify that Arch or its designee has or will have on the effective date funding sufficient to satisfy all of its obligations under the plan and intends to provide the requisite funding on the effective date in order for the plan to become effective and be consummated.

THE COURT: Does anybody have any objection to the Court considering the proffer by Mr. Felger or want the opportunity to examine the witness on the stand?

MS. COBB: Are you asking for an objection to the plan?

THE COURT: No, I'm asking if anybody objects to the testimony of Mr. Ozbalt being allowed as a proffer rather than taking his testimony or anybody wants to question him.

MS. COBB: No.

THE COURT: All right. Hearing no objection, the Court will accept the testimony -- the proffer of the testimony as offered by Mr. Felger and dispense with the necessity for actual testimony.

(Pause)

MR. FELGER: Your Honor, we've -- we submitted a form of confirmation order yesterday, and we've throughout the

evening and the day have made changes to the confirmation order, as Your Honor probably expects. And what I'd like to do is walk through the changes that we've made to the confirmation order to address additional concerns raised by various parties.

(Pause)

THE COURT: Before we go over that, should we not just have an overview of the debtors' meeting 1129(a)? I think that's pretty much addressed by virtue of the declarations that you filed here, but the issue of 1129(b), how you believe that it's been met by the debtor. And then let's hear if anybody else has anything on the record before we get to the entry of the order.

MR. FELGER: Right. Let's go right to the bible.

THE COURT: Okay.

MR. FELGER: As we've indicated, earlier, Your Honor, Classes 7 and 9 have not voted to accept the plan. Class 7 is a class of secured creditors. Class 9 is a class of unsecured creditors.

With respect to Class 7, which are insurers under workers comp programs, where they're holding collateral to secure the debtors' deductible obligations. It's our view that the debtors -- that the insurers are holding considerably more collateral than is necessary to cover their exposure under their -- with respect to their workers comp programs. So what we've agreed to do is to address that issue at the end of

September, but basically what we're looking to do is to fix the amount of their secured claim, determine what the amount of the secured claim is, and enable them to hold collateral sufficient to -- of the collateral that they have to cover their claim.

So 1129(b) -- 1129(b)(2)(a) sets out, "With respect to a class of secured claims, the plan provides that the holders shall retain the liens to the extent of the allowed amount of such claims," which is precisely what we're providing, "and that such holder shall receive on the account of such claim deferred cash payments totaling at least the allowed amount of the claim as of the effective date of the plan," which again is what we're providing. That they have exposure. They have collateral. We're going to fix the amount of the collateral, and they'll be fully secured and paid and treated in a manner consistent with 1129(b)(2)(a).

THE COURT: With regard to Class 9?

MR. FELGER: Class 9 is a class of unsecured claims, so we're looking at 1129(b)(2)(b), and it provides, "With respect to a class of unsecured claims," and it's either (a) -- either (1) -- Romanette 1 or Romanette 2. And Romanette 2 says, "The holder of any claim or interest that's junior to the claim -- claims of such class will not receive or retain under the plan on account of such junior claim or interest any property." And then it goes on to address an exception in the case of an individual.

Here the Ben, LLC interests are being canceled under the plan, and new interests are being issued to a new party, our plan funder, for considerable and fair consideration. So based upon the requirements of 1129(b)(2)(a) and (b)(2)(b), we believe that the plan is confirmable over the non-vote of Class 7 and the rejecting vote of Class 9. As we indicated earlier, and as the declaration sets out, the other impaired classes have voted in favor of the plan, and, in fact, the Class 10 trade creditors have voted overwhelmingly in support of the plan.

THE COURT: And do I understand correctly that the Class 9 creditors would be -- the ones that haven't resolved it would be subject to whatever insurance coverage there is to the extent there is --

MR. FELGER: Correct.

THE COURT: -- would be treated in any deficiency as an unsecured creditor?

MR. FELGER: Correct. To the extent that there are any remaining environmental claims -- and the only one we believe is out there is this NRD claim by NJDEP -- that's how they'd be treated, through insurance. And if there's any deficiency, it would fold into Class 10. The beauty of these settlements is that it really gets us to a point where we believe there will be very little, if any, claims that spill into Class 10.

THE COURT: Mr. Halperin.

MR. HALPERIN: Your Honor, Alan Halperin. Just for the record, from the preliminary information the Committee has -- obviously, we need to do some more homework, and there's been a lot of work going just to make sure the plan applies. I believe Mr. Felger's correct. I don't believe there will be very little spillover. We don't believe there will be any based upon what we've heard from the insurance policies. In fact, there will probably be oodles of coverage left at the end of the day. The waterfall makes perfect sense. It works. I only bring this up just to make it clear that the Committee is reserving the Class 10 Trustee's rights to address these claims to the extent it does impact the ability of the Class 10 Trustee to make distributions to other unsecured creditors. It will be dealt with, but yes, the waterfall would work that way.

THE COURT: Which would meet the absolute priority rule and allow an 1129(b) confirmation.

MR. HALPERIN: Absolutely.

THE COURT: Does anybody else want to be heard with regard to confirmation of the plan?

MR. FRANKEL: Your Honor, this is Don Frankel with the Justice Department representing the EPA.

THE COURT: Yes, Mr. Frankel.

MR. FRANKEL: We have an issue with respect to the plan modifications, Paragraph 3, the last sentence of it is

inaccurate, and it may be that the debtors were intending to make this change. But it reads, "With respect to the Puchack Well Field Superfund site, comma, the EPA is treating this site as a discharge site and covenanting to sue the debtors with respect to this site, comma, but the EPA is not providing contribution protection with respect to this site." Our issue with that language is that -- well, first, we're obviously not covenanting to sue the debtors, and, in fact, we're not providing any covenant not to sue with respect to the Puchack site. So we would ask that that sentence be revised to -- just to make it accurate.

THE COURT: Mr. Felger.

MR. FELGER: Yes, so then I -- and I apologize. I neglected to say this as I went through, but I made a mental note to do it and then got distracted. We have made additional changes to the confirmation order to address the additional sort of late-in-the-day changes requested by the EPA, and that's one of them. So we've made that -- we've made that change in the revised version of the confirmation order, but I just haven't gotten to walking through the revisions to the confirmation order yet. So that -- we've addressed that. Mr. Frankel raised that concern with us, and we've addressed it in the confirmation order.

THE COURT: Is that satisfactory to you, Mr. Frankel?

MR. FRANKEL: Yes, it -- once I hear what their fix

is in the confirmation order, I think it'll be satisfactory.

THE COURT: All right. We'll hold your objection until we get to that.

MR. FRANKEL: Okay. I had a couple of other issues with the confirmation order as well, but I want to hear what changes are being made before I raise any of those.

THE COURT: Okay. Fine. Yes?

MS. COBB: Excuse me, Your Honor. Carol Cobb from Giansante & Cobb on behalf of Ward Sand & Materials Company, Incorporated. We are the former owner of the Pennsauken landfill. We just had a couple of -- first of all, I just wanted to say we didn't get this until 3:15 yesterday, and that's why nothing was formally filed. I was in a deposition. I didn't get out of there until 5:45. I didn't have the opportunity to do anything between then and now, and I wanted the opportunity to discuss it with my client.

First, it appears to us as though this -- the settlement, at least in our case -- and I'm not going to speak to the NJDEP or the EPA -- is mainly to benefit the insurance company and not the debtor. They're trying to discharge all liability towards insurance, and after this is confirmed we are permanently enjoined, barred, and restrained from instituting, prosecuting, or litigating in any manner any claim or action for contribution against the debtors and the reorganized debtors together with such parties, successors, assigns, and

insured based upon liability or responsibility or asserted or potential liability or responsibility either directly or indirectly of the debtors or the reorganized debtors arising from or related to the claims, acts, facts, transactions, occurrences, statements, or admissions that are, could have been, or may be alleged in the government's actions or the Pennsauken litigation or any other action brought -- that might be brought by, through, or on behalf of for the benefit of the EPA, the NJDEP, the Pennsauken landfill litigation plaintiffs.

There are other actions. We -- I know the Harris action was excluded, but that's coming back, Your Honor. I have talked to the plaintiffs in that action. Yes, we are up at the Appellate Division. They all got out on statute of limitations issues. They're going to rename the class. It's going to be minors. There's no statute of limitations issues with regards to the minors. We just want to be protected from that, and the way we want to be protected from that is to be able to do discovery, but we're also barred from discovery.

If the plaintiffs want to -- the plaintiffs of Pennsauken want to agree to not do any discovery against the debtors, that's okay with us, but I don't know why in the plan we are now barred from obtaining discovery from the debtors and reorganized debtors or developing evidence in discovery against the reorganized debtors. If we're left behind and the plaintiffs are responsible for this matter, we would like to

pursue it against Aluminum Shapes as if they were in there, because we would like their liability, of course, to be as large as possible, so that the plaintiffs have to offset this amount to our litigation. We really want the right to have discovery in this matter. We feel that this plan is barring us from doing that, and that's mainly our main concern with regards to it.

We were in Exide, Metal Bank of America, and we were also in King Arthur. In every one of those litigations we lifted the stay, and we moved against insurance companies, and we took what we got, and we moved forward. In this one they're settling within. They're restricting our rights, and I think the winner in this case is the insurance companies.

THE COURT: Mr. Felger.

MR. FELGER: I think what I'm hearing is the same objections that we've heard from the joint defense group, and I mean perhaps what makes sense is for me to take a minute to see if that same resolution works for -- on that issue -- works for the Ward Sand issue. It seems it's the same -- they're raising the same issue that -- I believe they're raising the same issue that the joint defense group folks raised, which was resolved in our consent order. Perhaps you can indulge -- I don't know if others wish to be heard. Maybe we should hear from others.

MS. WOLFE: Your Honor, I represent one -- two of the transporters, Nicholas Brothers and Twentieth Century, and

we've been sitting here since 10:00, and literally, with the exception of speaking with debtors' counsel for about five minutes, all of this is a mystery to us. I did not receive the plan modification. I didn't -- you know, other than what counsel read, without having it in front of me, I need to reserve my right to object to that to the extent it affects the rights of my client, and I haven't had the opportunity to do this.

The other issue from my standpoint is the proof of claim issue, which you were not now hearing today, which is why I was here, is now being postponed towards August. I would like to be able to determine a date that's convenient for me as well, and maybe the other transporters who have been sitting here to ten hours, as opposed to -- I'm just not sure. I don't have my calendar here. But the issues raised by Ward Sand are also an issue to us. To the extent that the debtors' allocation is larger, that decreases our responsibility. So I need to look at that plan and those hold harmless agreements, you know, before I can say I have no objection to the plan, and that's not something that was provided to me.

THE CLERK: State your name for the record, please.

MS. WOLFE: Mary Elizabeth Wolfe.

MS. SOUTHALL: Good evening, Your Honor. Samantha Southall, Buchanan, Ingersoll, and Rooney, for Creditor Waste Management of New Jersey, and I just want to go on record as

joining in Ms. Cobb's comments.

MS. FLEMING: I'm Marlene Fleming. I represent A. Marianni's Sons. We are also a transporter in the case and have the same issues as raised by Ward Sand and Waste Management.

THE COURT: Mr. Felger.

MR. FELGER: Well, it sounds like they have the concerns that the joint defense group had, which were resolved in the consent order as opposed to in the confirmation order. The issues with discovery, I don't know how we help them with that. The Pennsauken litigation's been going on 20 years. As I understand it, discovery is closed, so I don't know what they do with respect to discovery in that litigation when it's closed.

But with respect to the relief that was afforded to the other co-defendants in resolution of their similar concerns with the plan modification -- and I'm going to need just to chat briefly with our plan funder, but perhaps that's the -- that's the way to resolve that issue.

THE COURT: Well, I mean I do recognize that you made these modifications, and they haven't really had a lot of chance to review them, go over them with their clients, and determine what the impact is upon them. I mean the result may be that they -- you know, their claims will get what their claims get, but if you can resolve some of these issues with

regard to some of their concerns, I think that would be helpful. I mean it's hard for me to say, well, they can't raise their objections now when you made substantial changes in the plan by virtue of the modification that was filed.

MR. FELGER: Understood.

THE COURT: Well, it's 7:00. What would you propose we do?

MR. BRODY: Your Honor, if I may?

THE COURT: Mr. Brody.

MR. BRODY: If I may? When somebody has been here for so long as everybody in this courtroom, we've now been here since before 10:00, all working towards resolution of resolution of resolution. It seems that we've done this so many days. But I have to speak up when I hear somebody who stands here and says, Your Honor, I've been here for ten hours, and nobody has talked to me, or, Your Honor, I've been here ten hours, and this is the first I'm hearing about it. Or worse, Your Honor, I've been here ten hours, and I just got to read something, and now I have to call my client. I'm sorry, Your Honor, I have to speak up. Maybe most of us have been working around the clock to get this done. The plan modification was sent to her yesterday. She's been here all day. I've been walking around. Mr. Felger's been walking around. Poslusny's walking around. The Creditors' Committee's been walking around. Not once did these people come and say I'd like to see

if I could work this out. We need to get this done. They've had every opportunity. Every opportunity. They chose to sit here. I can't force them to come to me, because most of the four people that came here I didn't even know had a problem. Your Honor, you're right. It is 7:00. This is the last issue that's on the table. We need to confirm.

THE COURT: All right. Can -- do you think that a few minutes of time to discuss this would be helpful?

MR. BRODY: Your Honor, I think that two minutes of this time is all that it's going to take.

THE COURT: All right. Let's take five, as it never takes what is said.

MR. BRODY: Thank you, Your Honor. I appreciate that.

THE COURT: We'll be back in five minutes or so.

MR. FELGER: Your Honor, that's a hard five?

THE COURT: Yes, I'm going to be up at five after. See what you can do to get these things resolved. Mr. Cohen, Mr. Frankel, and Mr. Klein, do you want to stay on hold or --

MR. COHEN: Your Honor, let's stay on hold.

THE COURT: All right. I'm just going to leave you on here in the courtroom, and you'll hear a lot of commotion and discussion. They're going to be on the phone, if that's --

MR. BRODY: Yes, Your Honor, we don't want to lose anybody.

THE COURT: All right, so if you'd just be patient, in about five or six minutes we'll be back on the record.

MR. COHEN: Thank you, Your Honor.

(Recess)

THE COURT: Be seated. Mr. Cohen, are you still on there?

MR. COHEN: Yes, Your Honor.

THE COURT: And Mr. Frankel and Mr. Klein?

MR. KLEIN: Yes, Your Honor.

THE COURT: Mr. Felger.

MR. FELGER: Yes, Your Honor.

THE COURT: How are we doing?

MR. FELGER: Thank you again for indulging us. I'm unfortunately looking for my plan modification. I seem to be misplacing my operative documents quite a bit today.

THE COURT: Well, there are a few of them.

MR. FELGER: Yes. Your Honor, what we've agreed to do is to -- and again it would be done in the confirmation order -- is that we are going to modify the -- in Section -- in Paragraph 6, Section 4.4, the seventh paragraph that begins, "Notwithstanding anything else to the contrary." At the bottom of that paragraph on that page the last line begins, "Reorganized debtors."

THE COURT: Paragraph 6.

MR. FELGER: I'm sorry. I'm sorry.

THE COURT: Paragraph 6.

MR. FELGER: And I apologize that these -- there's no page numbers. One, two --

THE COURT: Okay. Well, I'm at Page 6.

MR. FELGER: The fifth page.

THE COURT: Okay, the fifth page?

MR. FELGER: Yes, the paragraph in the middle of the page. It begins, "Notwithstanding anything else."

THE COURT: I must have counted wrong.

MR. FELGER: Do you have the plan modification?

THE COURT: I've got the plan modification. I have Section 6. It says, "Section 4.4 is hereby modified as follows," at the top.

MR. FELGER: Right, and turn two pages from there.

THE COURT: Okay. Okay. I've got, "Notwithstanding."

MR. FELGER: "Notwithstanding." The bottom of that page, the line that begins, "Reorganized debtors," there's a parenthetical that says, "except in the Pennsauken litigation." And then on the top of the next page there's another parenthetical that provides, "except in the Pennsauken litigation."

THE COURT: Right.

MR. FELGER: And what we've agreed to do is to strike

those two parentheticals and to add a new parenthetical at the end of that line that provides that, "Nothing contained herein is intended to enlarge or limit the discovery that's available in the applicable litigation." So that the intent is we're not looking to modify whatever rights folks have to discovery in the particular litigation that's affected.

THE COURT: Ms. Cobb, does that satisfy you?

MS. COBB: Yes, it does, Your Honor. I'm not going to withdraw my --

THE COURT: Can you just come up here, because I won't be able to get you recorded?

MS. COBB: Okay. With respect to the confirmation of the plan that does. I cannot withdraw my claim until I talk to my client. And with all due respect, I printed this out last night. I did approach somebody at 9:00 this morning, and I don't want anybody to think that we were just sitting around waiting.

THE COURT: Well, I -- everybody's tired now.

MS. COBB: Yes, I know.

THE COURT: The temperature in here has gone up. Apparently, the air conditioning stops at a certain point.

MS. COBB: Yes, I understand.

THE COURT: And not within my control, and so I think everybody -- and I recognize that I think everybody here who's been involved has been trying to fight so many fires that maybe

it just didn't get done, this one issue. So --

MS. COBB: Yes, and I appreciate that.

THE COURT: -- that notwithstanding --

MS. COBB: Yes.

THE COURT: -- are you satisfied now with the language, and whatever else happens with your claim will be --

MS. COBB: It will be held for another day.

THE COURT: Exactly.

MS. COBB: Thank you.

THE COURT: Thank you. Anybody -- any of the other parties who came up? I don't remember everybody's name, but does anybody have any problems with this change in the language?

MS. SOUTHALL: Good evening, Your Honor. Samantha Southall. We have no -- we're fine with the changes.

THE COURT: Counsel.

MS. WOLFE: Your Honor, Mary Elizabeth Wolfe. We have no problem, and if we could schedule the proof of claim motion for --

THE COURT: We will. As soon as we get this done, we'll pick a date that's avail -- that everybody's available.

MS. WOLFE: Thank you, Your Honor.

MS. FLEMING: Marlene Fleming for A. Marianni's Sons. We have no problem with the language as it's stated.

THE COURT: Mr. Felger, while we have everybody here,

why don't we pick a date to have this motion heard. I know we talked about some time in August. Is that what -- I'm trying to remember, because I know we have several things scheduled.

MR. FELGER: I think we --

MR. BRODY: August 12 at 10:00 would be fine, Your Honor.

MR. FELGER: We agreed to August 12th at 10:00.

THE COURT: Okay. These issues --

MR. BRODY: That's the same day.

THE COURT: -- will also be August 12th?

MR. FELGER: That's the 503 --

MS. WOLFE: Your Honor, I don't think I'm available that day. I know the 25th was mentioned as well, and that would be a day I was available. But that -- I have court-ordered depositions that day, the 12th.

THE COURT: Can we change the date?

MR. FELGER: How about the 11th? I think mentioned the 11th might be available.

THE COURT: The 11th is a Monday. I could do it that day. The only thing is these hearings tend to take up time, and I have my whole motion list. But I also have the 14th. Would that --

MS. WOLFE: The 14th, that would be fine.

THE COURT: How about you, Mr. Felger?

MR. FELGER: The 14th works.

THE COURT: How -- anybody else have a problem with the 14th?

(No verbal response)

THE COURT: All right. Let's change that 503 motion. It'll be on August 14th at 10:00. In the meantime, hopefully, you will reach out to each other and maybe resolve some of these issues.

MR. FELGER: Yes, I will certainly endeavor, Your Honor.

THE COURT: All right. That now being resolved, are we ready to move forward for confirmation?

MR. FELGER: Yes. I wanted to make one clarification. Is Mr. Frankel still on the line?

MR. FRANKEL: Yes, I am.

MR. FELGER: Okay. No need. No need. I thought there was a clarification necessary. What I'd like to do is walk through the changes to the confirmation order, Your Honor. Does Your Honor have a copy of the confirmation order that was submitted yesterday?

THE COURT: Findings of fact and conclusions of law and order?

MR. FELGER: Yes.

THE COURT: Yes.

(Pause)

THE COURT: Mr. Felger, I just want to bring up

something. It's in the order, but I might as well. I did tab it, but you're asking me to make the order effective immediately and waive Rule 3020(e) in the order. I really didn't see that in anything -- maybe you can point me to it -- in anybody's declaration, and so I need something on the record as to you're requesting that relief and the basis for your request rather than just having it in the order.

(Pause)

MR. FELGER: Your Honor, I just had a quick caucus with the Committee and HIG, and I think the view is that we would like that relief. We believe that really is appropriate under the circumstances. The --

THE COURT: I need you to make a record as to the reasons that you need that, then I can grant it.

MR. FELGER: Right.

THE COURT: You put in the order -- I can glean from most of the other issues -- you know, all the declarations you filed all the different issues with regard to the confirmation. Nowhere do I recall seeing the reason -- I have in my mind what I think is the reason, but if you would just elucidate the Court on why this is necessary for the debtor to have this relief, and then I can just rule on it.

MR. FELGER: Right. The -- obviously, the debtors have been operating in pretty precarious financial straits prior to the bankruptcy and throughout the course of the

bankruptcy, and that really hasn't changed. It's critical, in our view, that we get to closing as soon as possible given sort of the vagaries of the debtors' sales and financing needs. We're hopeful that we'll be able to close as early as -- you know, we're prepared to close tomorrow if HIG is prepared to close. So I think the real need here for having that relief is driven by the debtors' financing needs and overall financial condition at this point.

THE COURT: Anybody want to add anything? Mr. Halperin.

MR. HALPERIN: Your Honor, the debtor is operating pursuant to a specific budget, and as Mr. Felger indicated earlier, there is a cap as to the funding under the plan. There's some wiggle room. That's what the plan note was about, but that is only in the event we get to the point that we all hope we'll never get to, which is $90 million.

There have been efforts both by Phoenix for the debtor and J.H. Cohn for the Committee to fix what the numbers are that are necessary to confirm and to make sure that, in fact, we will fall within the cap, which is a plan condition and the conditioned funding of the plan. We think we're there. We think we have some cushion, but there are certain things that may ultimately hit or not hit depending upon where certain admin claims come in that haven't been dealt yet, depending upon whether we go through another payroll period, which if we

go past the end of the month, we're going to hit another one, and that adds more money on to the administrative expense.

So it's more out of an abundance of caution. We hope we won't need it, but we could find ourselves in a position where, in fact, we are bumping up against that cap. We don't have the ability to close in shorter than ten days, and, therefore, it is necessary. Hopefully, it won't be used, but it's necessary to have it in the arsenal just in case, otherwise, the plan in theory could unravel.

THE COURT: Thank you. I'm satisfied that you've met the standard that you need to satisfy the Court that the waiver of Rule 3020(e) is appropriate in this particular case. I haven't heard any objection from anybody. I will allow that to be part of the order.

MR. FELGER: Thank you, Your Honor. Working through the confirmation order, Your Honor, the first change is on Page 16, Paragraph 28, where we've added, "The clarification free and clear of all claims that arose on or before the effective date."

THE COURT: All right, and that -- that goes at the end?

MR. FELGER: Your Honor, I apologize. I thought we had given you a black line, but perhaps that hasn't happened.

THE COURT: No, I just have the original copy.

(Pause)

MR. FELGER: May I approach?

(No verbal response)

THE COURT: Okay.

MR. FELGER: It's on Paragraph 28.

THE COURT: "Free of any restrictions?" Is that the --

MR. FELGER: Yes, we've added, "that arose on or before the effective date."

THE COURT: Okay.

MR. FELGER: In Paragraph 29, we've added that same parenthetical, also capitalized liens and claims as they are defined terms in the plan.

In Paragraph 30, we need to insert a hearing date.

THE COURT: And is that -- that's the August 14th that we just -- right? This is on the -- or do you want a different date for the executory contract?

MR. FELGER: Perhaps a later date. I think you had an August 25th date perhaps?

THE COURT: 25th. That's a motion day. I mean if you think that it's not going to be a whole-day affair, we can put it on at 2:00 on the 25th.

MR. FELGER: I don't think it's going to be a lengthy hearing.

THE COURT: All right. August 25th at 2:00.

MR. FELGER: Okay. In addition, we agreed to add a

sentence, at the end of that sentence inserting the hearing date, at the request of Nationwide Industries. "Notwithstanding anything in the plan to the contrary, the debtor or reorganized debtor and Nationwide Industries, Inc. reserve all rights under 365 if the cure claim cannot be resolved." And that's language I read into the record earlier.

THE COURT: And do you have a copy with that language in it?

MR. FELGER: No, I do not. That's a new insert. We're going to have to make a further revision and submit it to Your Honor.

THE COURT: All right. Well, can we conclude the hearing today and have the order entered tomorrow but be effective today? Would that be satisfactory to you, Mr. Brody?

MR. BRODY: Yes, it would, Your Honor. As long as all the statements -- all the changes to the order are read into the record and the record is so ordered, that would be fine, Your Honor.

(Pause)

MR. FELGER: The next change is a cleanup change on Paragraph 49, "and discharge, except as otherwise provided for in the plan, this confirmation order."

THE COURT: What page was that?

MR. FELGER: Paragraph 49 --

THE COURT: Paragraph.

MR. FELGER: -- Page -- it's Page 30 in my copy, but I'm not sure if it's Page 30 in Your Honor's copy.

(Pause)

MR. FELGER: I'm sorry, Your Honor. There is one more change going back. I'm trying to keep all my notes straight here. End of Paragraph 35, plan administration agreement, we're adding a sentence to the end of Paragraph 35. It says, "The plan does not provide for the substantive consolidation of the debtors following the effective date, but the holders of claims in Class 10 shall be deemed filed against the consolidated debtors and shall be deemed one claim against or obligation of the debtors as if they were consolidated and shall receive one distribution from the debtors' estates in accordance with Section 4.5 of the plan." Just to make it clear that all of the creditors are treated in Class 10 with one claim against the pool.

We have a small change in Page 32, Paragraph 50, a parenthetical in the middle of the page, "including without limitation Section 3.7 of the plan," rather than, "hereof."

We have a small change in 52, "preservation of insurance." "The confirmation order," changed to, "This confirmation order."

In Paragraph 60 on Page 37 of my version we're adding the following at the end of that paragraph. Paragraph, "This order controlling." At the end we're going to add, "Provided,

however, that in the event of any inconsistency between this order and Section 6.2, 11.8, and/or 11.10 of the plan, those plan sections shall govern."

On Page 38 in Paragraph 64, "Plan modification," we've added two sentences there which addresses the settlement with the joint defense group. It reads as follows. "In the seventh paragraph of Section 4.4 of the plan modification the following shall be added to the first sentence after the word contribution at the end of the sixth line, 'or joint and several liability.'"

Also, the following shall be added to the end of the same sentence, "except to defend any action brought by any such party for contribution or joint and several liability."

In Paragraph 65, "the settlement of the environmental claims of NJDEP and Pennsauken," in Romanette 3 at the bottom of the page, at least on my version the bottom of the page, the words "are approved in their entirety" has been edited to read, "are incorporated herein and approved in their entirety."

The next page in Paragraph 65 we made a change to strike, "Notwithstanding the foregoing the Court notes that," and have inserted, "with respect to the paragraph in Section 4.4 of the plan modification describing the settlement with," and we struck five lines of text to remove the EPA from that paragraph principally, so that it now reads, "The settlement with the Pennsauken landfill plaintiffs." The first sentence

is revised as follows. It provides, "In accordance with the terms of the settlement agreement and general liability release between the debtors and Pennsauken landfill plaintiffs, Pennsauken landfill plaintiffs shall receive the sum of $450,000, and the debtor shall address hexavalent chromium issues with respect to the Pennsauken landfill MW6 in full and complete satisfaction of the Pennsauken landfill plaintiffs' claims, paren, as that term is defined in the Pennsauken agreement against the debtors including all claims raised in the litigation referenced on Page 24 of the disclosure statement, paren, defined term, the Pennsauken litigation."

And then we've added 66 -- Paragraph 66 to describe the settlement or the state of the settlement of the environmental claims of EPA, and that reads as follows. "The debtors and EPA have entered into an agreement in principal subject to the approval of the appropriate governmental officials that is generally described at Section 4.4 of the plan. If the debtors and EPA are able to consummate this agreement, a settlement agreement will be lodged with the court and subject to a public comment period that shall be no more than 30 days. At the time the settlement agreement is lodged with the court, the reorganized debtors will request that the Court approve the settlement agreement, but the hearing on the reorganized debtors' request shall not be held until the United States informs the Court of any public comments on the

settlement agreement and the United States' responses to those comments. After the close of the public comment period the United States will file with the Court any comments received as well as a United States response to the comments, and, if appropriate, will request that the Court approve the settlement agreement. The United States may withdraw or withhold its consent if the comments regarding the settlement agreement disclose facts or considerations indicating that the settlement agreement is not in the public interest. With respect to the paragraph in Section 4.4. of the plan modification describing the contemplated settlement with the PA, the last sentence is revised to read as follows, 'The settlement agreement is expected to treat the Puchack Well Field Superfund site as a discharged site but not provide contribution protection with respect to that site.'" And that addresses Mr. Frankel's comment from earlier in the hearing.

We've also agreed to add the paragraph that I read into the record earlier, Paragraph -- which would be Paragraph 67 of the confirmation order, which will read as follows, "Notwithstanding anything contained in the plan, Schedule 4.4 to the plan, the disclosure statement, any plan-related document in the confirmation order, nothing contained therein shall affect or prejudice the right of SL Industries, Inc. to assert that any obligations of the reorganized debtors with respect to the Puchack Well Field Superfund site, EPA I.D.

Number NJD981084767, defined as the Puchack site, are neither claims as defined in the plan, in the Bankruptcy Code, nor in environmental claims as defined in the plan. To the extent such obligations are neither claims nor environmental claims, they shall not be subject to the discharge or injunction provisions contained in this confirmation order. To the extent such obligations are claims or environmental claims, they shall be subject to the discharge and injunction provisions contained in the confirmation order."

I believe those are all of the changes that we've agreed to make to the confirmation order to address comments of interested parties in resolution of objections. We would at this time move the entry of the binder of exhibits forming the record of the confirmation hearing, and we would respectfully request that Your Honor enter the confirmation order confirming the debtors' third amended plan as modified.

THE COURT: Anybody else want to be heard?

(No verbal response)

THE COURT: All right. I will move the -- I will admit the binder documents as part of the record, and the Court having heard the -- having reviewed the declarations that have been filed in support of confirmation of the plan, having reviewed the plan, the comments, settlements, heard the argument of counsel, resolution of the various issues, being satisfied that the provisions of 1129(a) have been met, in

particular, that the plan complies with the provisions of the Bankruptcy Code, that the proponent has complied with the provisions of the Bankruptcy Code, that the plan has been proposed in good faith and not by any means forbidden by law, that the payments required for costs will be -- have been paid, will be paid, or will be approved for payment, that the disclosure of the individuals who will serve post-petition as officers or directors of the debtor have been disclosed, that there is no regulatory agency that will -- that is necessary to approve this, that each impaired class has -- that the -- I believe all the classes except two impaired classes have accepted the plan pursuant to the provisions of Chapter 11, and that the classes that have not accepted will not be treated -- are not unfairly impacted and can be crammed down pursuant to the provisions of 1129(b).

That priority claims will be paid at the -- by the effective date of the plan or otherwise agreed to by the parties. That at least one impaired class has accepted the plan. It does not appear to the Court that confirmation is likely to be followed by liquidation or further reorganization. That the bankruptcy fees have been paid or will be paid by the effective date, and that the debtor is not subject to retirement benefit payments that would impact the ability to confirm the plan nor subject to a domestic support obligation -- obligations.

And, in addition, that the debtor has shown that the provisions of 1129(b) have been met by virtue of the fact that no claim of a lower class classification will be -- will receive a distribution ahead of a higher class of creditors, and that the plan is fair and equitable and meets the absolute priority rule.

This Court is satisfied that the provisions of 1129(a) and (b) have been met and will enter an order of confirmation set forth as has been provided in the order that has been submitted to the Court today, as modified by Mr. Felger's comments on the record, and upon submission of that order, that order will be entered confirming the plan.

Thank you, Mr. Felger, and I -- Mr. Brody?

MR. BRODY: I'm sorry, Your Honor. Earlier you had mentioned that the order would be signed tomorrow but effective as of today?

THE COURT: And it would be --

MR. BRODY: Thank you. Your Honor.

THE COURT: The order will be effective as of today, although it will be signed tomorrow, and you can put language in the preamble that the order will be effective as of today.

I just want to say for the record that the Court recognizes the huge amount of work that all counsel to this proceeding has gone -- that has gone forward by all counsel, especially the debtors' counsel, the Committee, and the fund --

plan funders' counsel, the huge amount of time that's been devoted to this, and all of the multiple issues that have come before the Court under the expedited basis that the debtor has needed to move. And, quite frankly, based on how things went in the very beginning of the case, it was a huge accomplishment to by now reach the position that it has and to have the plan reach confirmation and to have the confirmation approved. And I want to commend all of the parties and their counsel for the work that was done with regard to moving this case to confirmation. Thank you, Your Honor.

MR. FELGER: Thank you, Your Honor. I'd like to also thank Your Honor for your patience, your assistance along the way. Our chambers conferences with Your Honor proved invaluable each and every time, and so again we'd like to thank you. I'd also like to thank all the counsel in the courtroom. It was a real pleasure dealing with really terrific bankruptcy counsel in this case.

I think I'd be remiss if I didn't mention the really first rate, terrific work of the non-bankruptcy lawyers who were instrumental to getting us to this point. I mentioned earlier, and I'll mention them again, Kevin McKenna and Pete Fountaine and Sean Bezark on the environmental issues just did a terrific job of getting us to where we are today.

On the labor side, Paul Lewis of the Stevens & Lee firm and Jonathan Israel of the Greenberg firm, doing a

terrific job in getting us where we needed to be with the collective bargaining agreements.

And last, but not least, I'd be remiss if I didn't mention the really Herculean, terrific job done by the debtors' management, Mr. Grabell, Mr. Sorenson (phonetic), and Mr. Galland (phonetic). Before Mr. Galland left for perhaps greener pastures, they did a terrific job under really, really difficult situations and handled it every step of the way with just a lot of class.

THE COURT: And, as you know, Mr. Felger, that's how a Chapter 11 process is supposed to work, a lot of negotiations, resolution. When the -- when that happens, that's -- the process works well, and you end up with a good result such as we had today.

I know there's still a few more things that have to be done, but I think that the majority of the hills have been climbed here, and we can move forward with the rest of the things that have to go forward. I will look for the order tomorrow, Mr. Felger.

MR. FELGER: Yes, you will have it tomorrow.

THE COURT: And --

MR. FELGER: Thank you very much, Your Honor.

THE COURT: Thank you.

MR. BRODY: Thank you, Your Honor.

THE COURT: Everybody be careful going home. It's

almost 8:00 and rather late now, so --

*** * * * ***

C E R T I F I C A T I O N

I, PATRICIA C. REPKO, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.

/s/ Patricia C. Repko **DATE: July 30, 2008**
PATRICIA C. REPKO
J&J COURT TRANSCRIBERS, INC.